PAGE

McFarland, Jerry—
Direct Examination 468
Cross Examination 471
Andresen, Harold H.—
Direct Examination 472
Cross Examination 475
Mitchell, Arthur—
Direct Examination 475
Cross Examination 478
Jahncke, Homer—
Direct Examination 479
Cross Examination 481
Redirect Examination 482
Weaver, Ralph Clifford—
Direct Examination 482
Cross Examination 488
Redirect Examination 489
Gallina, Ben—
Direct Examination 490
Cross Examination 496
Burton, Seymour I.—
Direct Examination 497
Hawkins, Mortimer—
Direct Examination 502
Cross Examination 514
Redirect Examination 518
Recross Examination 519
Redirect Examination 519
Turpin, William A.—
Direct Examination 520
Cross Examination 524
Redirect Examination 525
Flora, Roy E.—
Direct Examination 526
McCummings, James W.—
Direct Examination 555
Glashagel, Edward E.—
Direct Examination 559

PAGE

Swainson, Wynyard—
Direct Examination 561
Middleton, Arthur H.—
Direct Examination 563
Cross Examination 567
Redirect Examination 568
Recross Examination 568
Paulson, Arthur L.—
Direct Examination 569
Lehmann, Ranstead S.—
Direct Examination 572
Wiedemann, Joseph J.—
Direct Examination 575
Wales, Robert E.—
Direct Examination 576
Heckman, Robert—
Direct Examination 584
Cross Examination 589
Seybold, Martin—
Direct Examination 589

VOLUME II

Direct Examination, (continued) 599-645
Gordon, Theodore—
Direct Examination 645
Cross Examination 650
Redirect Examination 652
Gershick, Bernard—
Direct Examination 652
Stewart, John Duncan—
Direct Examination 656
Kidwell, Lamar J.—
Direct Examination 659
Gubbins, Clarence P.—
Direct Examination 678
Brittain, H. Wheeler—
Direct Examination 681
Cross Examination 685

PAGE

Lohbauer, Mervin—
Direct Examination 685
Marker, Frank—
Direct Examination 698
O'Rourke, Joseph J.—
Direct Examination 702
Money, Harold E.—
Direct Examination 706
Cross Examination 710
Redirect Examination 711
Recross Examination 713
Creedon, Bernice S.—
Direct Examination 714
Jurs, Erven—
Direct Examination 720
Achilli, Lindo—
Direct Examination 726
Santurro, Harry—
Direct Examination 732
Magnuson, Walter—
Direct Examination 742
Wagner, Mrs. Josephine—
Direct Examination 747
Abelmann, William H.—
Direct Examination 750
Affeld, Marvin E.—
Direct Examination 761
Bohlin, Howard H.—
Direct Examination 765
Cross Examination 767
Muntz, Earl W.—
Direct Examination 767
Hintt, Roland Jack—
Direct Examination 772
Silagy, Mitchell A.—
Direct Examination 776

PAGE

Rohe, Vivian—
Direct Examination 782
Cross Examination 790

Carrel, Charles W.—
Direct Examination 791

Gromer, Earl H.—
Direct Examination 796
Cross Examination 895

Weber, Ralph A.—
Direct Examination 907
(recalled)
Cross Examination 971
Redirect Examination 1040
Recross Examination 1042

Ruggaber, William M.—
Direct Examination 960
Cross Examination 963

For Defendant:

Ward, Edward J.—
Direct Examination 1059

Floyd, Howard A.—
Direct Examination 1061

Pillinger, H. H., Jr.—
Direct Examination 1065
Cross Examination 1067

Goggin, Michael J.—
Direct Examination 1067
Cross Examinaiton 1068

Stettner, Richard—
Direct Examination 1069
Cross Examination 1070

Dierking, Donald—
Direct Examination 1070
Cross Examination 1072
Redirect Examination 1072

PAGE

Mayer, Robert D.—
Direct Examination 1073
Cross Examination 1074
Redirect Examination 1075
Recross Examination 1075

Grant, Walter E.—
Direct Examination 1075
Cross Examinaiton 1077

Goldstein, Herman—
Direct Examination 1078

Powell, George—
Direct Examination 1081
Cross Examination 1082

Kidwell, Lamar J.—
Direct Examination 1083
Cross Examination 1085

Arnold, Ashley—
Direct Examination 1085
(recalled)
Direct Examination 1097
Cross Examination 1098

Lamphere, Fletcher C.—
Direct Examination 1087

Schick, Elmer—
Direct Examination 1088
Cross Examination 1090

Stadler, John—
Direct Examination 1091
Cross Examination 1092

Grow, Milton A.—
Direct Examinatio 1093
Cross Examination 1094

	Original	Print
Proceedings in U.S.C.A. for the Seventh Circuit	1	1
Opinion, Lindley, J. (June 5, 1956)	1	1
Judgment	15	1237
Petition for rehearing	16	1238
Opinion, Lindley, J., on rehearing (July 31, 1956)	58	1268
Order denying petition for rehearing	62	1272
Motion for leave to proceed in the U.S.D.C., etc.	63	1272
Notice of and amendment to motion to stay mandate	65	1273
Order denying motion for leave to proceed in the U.S.D.C., etc.	67	1274
Order staying mandate	68	1275
Clerk's certificate (omitted in printing)	69	
Order extending time to file petition for writ of certiorari in the Supreme Court	70	1275
Order denying petition for writ of certiorari, dated November 19, 1956	71	1276
Order vacating order of November 19, 1956 and granting certiorari	72	1276

1a PLEAS had at a regular term of the United States District Court for the Eastern Divisjon of the Northern District of Illinois begun and held in the United States Court Rooms in the City of Chicago in the Division and District aforesaid on the first Monday of June (it being the 6th day thereof) in the Year of Our Lord One Thousand Nine Hundred Fifty-Five and of the Independence of the United States of America, the 179th Year.

Present:

Honorable John P. Barnes, Chief District Judge
Honorable William H. Holly, District Judge
Honorable Philip L. Sullivan, District Judge
Honorable Michael L. Igoe, District Judge
Honorable William J. Campbell, District Judge
Honorable Walter J. La Buy, District Judge
Honorable J. Sam Perry, District Judge
Honorable Win G. Knoch, District Judge
Honorable Julius J. Hoffman, District Judge

Roy H. Johnson, Clerk

William W. Kipp, Sr., Marshal

Thursday, June, June 16, 1955

Court met pursuant to adjournment

Present: Honorable Win G. Knoch, Trial Judge

2a

IN THE UNITED STATES DISTRICT COURT
For the Northern District of Illinois
Eastern Division

United States of America,
Plaintiff,
vs.
Sam Achilli,
Defendant.
No. 53 CR 154

PREFIX TO RECORD
Rule 10(b)

Style of Court: District Court of the United States for the Northern District of Illinois, Eastern Division.

Title of Case: United States of America *v.* Sam Achilli No. 53-Cr.-154.

Commencement of Action: Indictment filed March 9, 1953.

Parties: United States of America, Plaintiff,
Sam Achilli, Defendant
732 Brook Street, Elgin, Illinois

Pleadings filed: Indictment March 9, 1953, charging the filing of false and fraudulent income tax returns, with intention to evade the tax for the calendar years 1946, 1947 and 1948.
Not Guilty plea May 13, 1953.

Defendant Status: Bail taken for trial in District Court. Bail taken for this Appeal.

3a Trials: First trial: November 8 to 22nd, 1954, resulting in declaration of mistrial by Court.
Second trial: April 11 to May 27th, 1955, resulting in conviction on all three counts of Indictment.

Judge: Hon. Win G. Knoch

Verdict: Trial by Jury. Verdict of guilty by Jury on all three counts of Indictment

Final Decree: Judgment and sentence of the Court was on June 16, 1955.

Sentence: Two years on each count, sentences to run concurrently; and fine of two thousand ($2,000) dollars on each count.

Date of Appeal: June 24, 1955.

/s/ Carl J. Batter
Carl J. Batter
Attorney for Defendant

4a

IN THE UNITED STATES DISTRICT COURT

(Caption—No. 53 CR 154)

Be It Remembered, that on to wit, the 9th day of March, 1953, the above-entitled action was commenced by the filing of the Indictment in the office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, in words and figures following, to wit:

5

IN THE UNITED STATES DISTRICT COURT
For the Northern District of Illinois
Eastern Division

United States of America, Plaintiff, vs. Sam Achilli, Defendant.	No. 53 CR 154

The March 1953 Grand Jury charges:

That on or about the 10th day of March, 1947, in the Northern District of Illinois, Eastern Division, the defendant,

Sam Achilli,

late of Elgin, Illinois, did wilfully and knowingly attempt to defeat and evade a large part of the income tax due and owing by him to the United States of America for the calendar year 1946, by filing and causing to be filed with the Collector of Internal Revenue for the First Internal Revenue Collection District of Illinois, at Chicago, a false and fraudulent income tax-return wherein he stated that his net income for said calendar year was the sum of $11,753.96 and that the amount of tax due and owing thereon was the sum of $2,780.15; whereas, as he then and there well knew, his net income for the said calendar year was the sum of $44,254.60, upon which

said net income he owed to the United States of America an income tax of $20,856.74.

In violation of Section 145(b), Internal Revenue Code: Title 26, United States Code.

6a COUNT TWO

The March 1953 Grand Jury further charges:

That on or about the 15th day of March, 1948, in the Northern District of Illinois, Eastern Division, the defendant,

Sam Achilli,

late of Elgin, Illinois, did wilfully and knowingly attempt to defeat and evade a large part of the income tax due and owing by him to the United States of America for the calendar year 1947, by filing and causing to be filed with the Collector of Internal Revenue for the First Internal Revenue Collection District of Illinois, at Chicago, a false and fraudulent income tax-return wherein he stated that his net income for said calendar year was the sum of $16,785.52 and that the amount of tax due and owing thereon was the sum of $4,620.98; whereas, as he then and there well knew, his net income for the said calendar year was the sum of $70,785.75, upon which said net income he owed to the United States of America an income tax of $39,484.76.

In violation of Section 145(b), Internal Revenue Code: Title 26, United States Code.

7a COUNT THREE

The March 1953 Grand Jury further charges:

That on or about the 15th day of March, 1949, in the Northern District of Illinois, Eastern Division, the defendant,

Sam Achilli,

late of Elgin, Illinois, who during the calendar year 1948 was married, did wilfully and knowingly attempt to defeat and evade a large part of the income tax due and owing by him and his wife to the United States of America for the calendar year 1948, by filing and causing to be filed with the Collector of Internal Revenue for the First Internal Revenue Collection District of Illinois, at Chicago, Illinois, a false and fraudulent joint income

tax-return on behalf of himself and his said wife, wherein it was stated that their net income for said calendar year was the sum of $34,053.12 and that the amount of tax due and owing thereon was the sum of $8,968.52; whereas, as he then and there well knew, their joint net income for the said calendar year was the sum of $52,805.05, upon which said net income there was owing to the United States of America an income tax of $17,997.25.

In violation of Section 145(b), Internal Revenue Code; Title 26, United States Code.

A True Bill:
P. C. Massie
Foreman

Otto Kerner, Jr.
United States Attorney

8a UNITED STATES DISTRICT COURT
Northern District of Illinois
Eastern Division

The United States of America
vs.
Sam Achilli

INDICTMENT

VIO: Section 145(b), Internal Revenue Code; 26 U.S.C., Section 145(b) (Wilfully and knowingly attempting to defeat and evade large parts of the income tax due and owing by him to the United States by filing and causing to be filed with the Collector of Internal Revenue false and fraudulent income tax-returns.)

A true bill,
P. C. Massie
Foreman.

Filed in open court this 9th day of March, A. D. 1953

Roy H. Johnson, Clerk.

9a And afterwards, to wit, on the 13th day of May, 1953, being one of the days of the regular May term of said Court, in the record of proceedings thereof, in

said entitled cause, before the Honorable Michael L. Igoe, District Judge, appears the following entry, to wit:

10a

IN THE UNITED STATES DISTRICT COURT

* * (Caption—No. 53 CR 154) * *

This day comes the United States by the United States Attorney comes also the defendant Sam Achilli in his own proper person and by his counsel and being arraigned upon the Indictment filed herein against him pleads not guilty thereto and it is

Ordered that the defendant be and he is hereby given 20 days herefrom within which time to file any preliminary motions; that the United States be and is hereby given 20 days thereafter within which time to answer said motions and that this cause be and the same is hereby continued to June 19, 1953 at 2 o'clock P.M. for hearing on said motions, if any.

11a-12a * * *

13a And afterwards on, to wit, the 10th day of June, 1953 came the Defendant by his attorneys and filed in the Clerk's office of said Court his certain Motion To Dismiss And Alternative Motions, Affidavit In Support Thereof, etc., in words and figures following, to wit:

14a

IN THE
UNITED STATES DISTRICT COURT

* * (Caption—No. 53 CR 154) * *

MOTION TO DISMISS AND
ALTERNATIVE MOTIONS.
AFFIDAVIT IN SUPPORT THEREOF.
BRIEF IN SUPPORT THEREOF.

JOSEPH A. STRUETT,
Attorney for Sam Achilli,
105 West Madison Street,
Chicago 3, Illinois,
FRanklin 2-0665.

(Filed Jun 10 1953)

15a

IN THE
UNITED STATES DISTRICT COURT

(Caption—No. 53 CR 154)

MOTION OF DEFENDANT TO DISMISS INDICTMENT, OR IN THE ALTERNATIVE, TO ORDER A BILL OF PARTICULARS, SUPPRESS EVIDENCE AND FURNISH CERTAIN INFORMATION AS TO INTERVIEWS OF CUSTOMERS OF HIGHLAND MOTOR SALES.

Now comes Sam Achilli, the defendant herein, by his attorney, Joseph A. Struett, and makes the following motions:

1. Moves that the indictment and each count thereof be dismissed, on the grounds (a) that the statute on which said indictment and each of said counts is founded, namely, Section 145(b) of the Internal Revenue Code, when read together with Section 3761(a) of the Internal Revenue Code and other statutes which are in pari materia therewith, amounts to an unconstitutional delegation of
16a authority to the executive branch, in violation of Article I, Section I of the Constitution of the United States manifesting the doctrine of separation of powers, and in violation of the due process clause of the Fifth Amendment of said Constitution; and (b) that the executive branch has employed unconstitutional practices and procedures in the enforcement of said Section 145(b), as applied to the defendant herein, resulting in his indictment herein, in violation of the due process clause of the Fifth Amendment of said Constitution.

In the alternative,

2. Moves, pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure, that the Court direct the United States Attorney to file a bill of particulars as to each separate count of the indictment herein to make full and specific the charge therein, such bill of particulars to identify, list, explain and make clear the following matters with at least as much information and details as are commonly found in a Revenue Agent's report accompanying a notice to a tax payer of a proposed deficiency assessment of federal income taxes viz:

a. The extent, if any, that any alleged understatement of net income of the defendant was caused by items of alleged unreported gross income of the defendant. listing each such item by date and amount, describing the transaction out of which each such item arose, and furnishing the name and address of the person, firm or corporation who or which was the source of such item of unreported gross income of the defendant;

b. The extent, if any, that any alleged understatement of net income of the defendant was caused by items of alleged unallowable deductions of the defendant, listing each item by date and amount and describing the nature of each such item;

17a c. The adjustments of defendant's reported income and deductions, and the computations of federal income taxes, by means of which the figures set forth in each count of the indictment were arrived at, purporting to show the true and correct amount of federal income taxes due from defendant with respect to each taxable period covered in the indictment; and

d. The source of the government's data as to the matters set forth in subparagraphs a to c, inclusive, above, both documentary and oral, to the extent not privileged by law, including, without limiting the generality of the foregoing, a detailed specification of the information, both documentary and oral, concerning defendant's transactions and affairs involved directly or indirectly in the indictment herein, obtained by the government from Earl H. Gromer, defendant's attorney.

e. That the government file the net worth statement and compilations thereof on which it intends to rely at the trial--and further that it also file a detailed statement of its evaluations, and how they were arrived at of all properties of the defendant Sam Achilli which may be included in said net worth statement.

3. Moves that this Court suppress all evidence, whether documentary, oral or otherwise, obtained by the government directly or indirectly from Earl H. Gromer concerning defendant's transactions and affairs involved di-

rectly or indirectly in the indictment herein, on the ground that such evidence stemmed and was derived from confidential information obtained by Earl H. Gromer in his capacity as attorney for the defendant herein and that defendant did not and does not waive the privilege of confidential communication inherent in and surrounding said attorney-client relationship.

4. Moves that this Court direct the United States Attorney to furnish a list of the names and addresses of
18a all customers of Highland Motor Sales who were interviewed by Revenue Agents in connection with the investigation of the instant case, and a copy of each written statement made by any such customer at the behest of said Agents and a copy of each memorandum of any such interview made by said Agents, pertaining to transactions involved in the instant case, including, without limiting the generality of the foregoing, any such statement or memorandum relating that a customer paid or may have paid money to Earl H. Gromer or that said Earl H. Gromer was ppresent when money was allegedly paid by a customer to defendant or anyone else in connection with the business of Highland Motor Sales, or relating to any fact that said Earl H. Gromer participated in any manner in any transactions of Highland Motor Sales which were not fully and accurately reflected on the books of account thereof for each and all of the prosecution years.

In support of the above motions there is hereto attached and made a part hereof by reference the affidavit of Joseph A. Struett and a Brief of the Law.

/s/ Joseph A. Struett,
Joseph A. Struett,
Attorney for Defendant.

* * *

19a * * *

20a

ALTERNATIVE MOTIONS.

Motion for Bill of Particulars.

The right of a defendant to a Bill of Particulars, and under what circumstances, is fully developed in a brief filed in this Court in the case of U. S. *v.* Lawrenz, 52 Cr. 132. A